

Egremont Conservation Commission meeting March 9, 2017 town hall, Egremont MA. 7:00 PM start.

Commissioners present: Chairman Bill Tynan, Alina Hsu, Ted Rubsamen and Ben Barrett.

Guests: Shep Evans, the Commission's designated Conservation agent to assist in the Shemshack hearing, Tom Gilbert, Steve Mack, Alex Glover lawyer for Hakim. Two residents showing interest in potentially joining the commission: Lisa St. Pierre, David Seligman.

The commissioners opened up the meeting by welcoming two residents Lisa and David and gave a brief synopsis of what they might expect to see if they choose to join the commission.

Updates:

Mt. Washington Road Bridge: Weekly visit reports from Stockman Associates have been coming in, but over the protracted length of the project, site visits have been intermittent. Hiatuses were due to the weather. Stockman Associates' 12 visits that were budgeted for have all been used up so provisions have to be made to cover her future costs. The Commission agreed to request the Selectmen authorize two, and possibly 5 more visits. Selectmen gave authorization for 5 more visits, and it is our hope that not all 5 will be needed. Emily Stockman indicated to Bill Tynan on March 8th that she would continue at least until the pipe is removed. She also said the crew needs to be out by March 15 predicated on NHESP constraints. She suggests one visit next week and one late spring. It is our recommendation that a site visit is to be done week of March 13, one next week and one later in the spring when site is more stable. Ted believes that they are to pull the pipe 3/10/17 based on a conversation at the site visit today. Ted excused himself from the meeting due to personal commitments.

Hearing for **Shemshack 13 Nicholson Road** continued at 7:30 for pond expansion project. The hearing is being recorded. Steve Mack of Foresight Engineering presented another short synopsis of the project involving the pond and dry hydrant, emergent shelf, native species, 401 water quality certifications (needed for projects dredging in excess of 100 cubic yards; 660 cubic yards in this case). Tom Gilbert continues to have engineering and easement concerns, however did not have his engineer (Prendergast) with him, nor legal counsel. Easements with joint ownership were discussed at length. Does altering the pond have some ramifications on the easements? Catamount's contention is that they want their original easement between John Fischer and Catamount, Inc. (recorded January 29, 1965, Book 346, Page 118) to continue to be upheld after the project is done.

Excerpts of the J. Gavin Cockfield (attorney for Catamount) letter of January 24, 2017 were read aloud by Shep Evans. Mr. Cockfield's contention is that permission from Catamount has to be given before the Commission can make a ruling on an NOI and issue OOCs. Apparently Mr. Cockfield had an outdated version of the CMR 310 10.05(4)(a) which he quoted chapter and verse from. The new version (2014) of the law addresses exactly this issue of whether or not permission is needed from other landowner(s). The word "a" replaces the word "the" in the updated version of 2014. From CMR 310 10.05(4)(a): If the applicant is not **A** landowner (not

THE landowner) of the project locus the applicant shall obtain written permission from A landowner(s) prior to filing of an NOI.....This is where we need town counsel to weigh in.

Catamount would like to have the proposed new outlet moved onto their property to afford them control of the release from the pond, not Mr. Hakim. The elevation (170') of the pond will not change with the new outlet, according to Mr. Mack. Installation of the outlet might impact a tree's roots, and a pipe may be installed rather than a swale. The plan submitted by Foresight *does not* reflect the change in location of the outlet. That will require further engineering and revised plans to be submitted.

Steve Mack of Foresight specifically requested of Tom Gilbert to have Prendergast bring forth any engineering concerns to his attention immediately so that they can iron out any issues before the 23rd of March.

So it is the contention of the ECC that we're going to need to clarify CMR 310 10.05(4)(a) 100% with town counsel so as not to create further unrest downstream. Pun intended.

And because of the complexity of the issue, the ECC was not ready to accept submittal of the NOI and close the hearing. Hearing continued by unanimous vote to 3/23/17 at 7:30 PM.

New potential commissioner's email addresses: seligmand@gmail.com llstpierre@yahoo.com

Motion to adjourn at 9:35 PM

Respectfully submitted,



Ben Barrett,

Secretary for the commission

